



Staff Report

CITY COUNCIL REVIEW OF PLANNING COMMISSION ACTION – CONDITIONAL USE PERMIT – MCDONALD’S – 522 EL CAMINO REAL

Honorable Mayor and Council Members:

Summary

On May 9, 2006, by a vote of 5 to 0, the City Council initiated proceedings to review the decision of the Planning Commission to approve a Conditional Use Permit (CUP) to modify the hours of operation for the McDonalds restaurant located at 522 El Camino Real (See Adopted Commission Resolution 2006-0020 & Conditions of Approval – Attachment C). The Commission approved such Conditional Use Permit at their April 18, 2006 meeting.

At the May 23, 2006 City Council meeting, the item was continued (at the applicants request) to allow them an opportunity to forward lighting, security camera, and signage plans for Council review in conjunction with the Planning Commission action at scheduled for tonight’s meeting. These plans (and cover letter dated June 2, 2006) are provided as Attachment G.

Two resolutions, one upholding the Planning Commission’s decision and one overturning it, are attached for Council’s consideration.

Background

The existing McDonalds restaurant operates dine-in service from 7:00 AM to 11:00 PM. During the winter months (September through May) the drive-thru service operates from 7:00 AM to 11:00 PM Sunday through Thursday, and from 7:00 AM to midnight on Friday and Saturday. During the summer months (June through August) the drive-thru service is permitted to operate 7:00 AM to midnight, seven days per week. The Planning Commission approved these hours of operation in 1981 (Adopted Resolution No. 1981-13).

As discussed in the attached staff report to the Planning Commission dated April 18, 2006 (See Attachment D), the requested CUP would allow dine-in service from 5:30 AM to 11:00 PM and drive-thru service 24 hours per day for the restaurant. No modifications to the exterior of the existing restaurant or to the site plan are proposed in conjunction with the requested CUP.

At the April 18, 2006 Planning Commission hearing, there were no neighbors either for or against the proposal. After considerable deliberation, draft minutes attached (See Attachment D), the Commission voted 3-1 to approve the Conditional Use Permit application.

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The Commission-Approved Conditions of Approval for the Conditional Use Permit are as follows:

Community Development Department

- All construction and related activities which require a City building permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
- In accordance with the Belmont Zoning Ordinance, the permit(s) granted by this approval shall expire one (1) year from the date of approval, with said approval date indicated on the accompanying Planning Commission resolution. Any request for extension of the expiration date shall be made in accordance with the applicable provisions of the Belmont Zoning Ordinance.
- Prior to issuance of building permits, the property owner shall file with the Director of Community Development, on forms provided by the City, an acknowledgment that he/ she has read, understands and agrees to these conditions of approval.
- In the event that this approval is challenged by a third party, the property owner and all assignees will be responsible for defending against this challenge, and agrees to accept responsibility for defense at the request of the City. The property owner and all assignees agree to defend, indemnify and hold harmless the City of Belmont and all officials, staff, consultants and agents from any costs, claims or liabilities arising from the approval, including without limitation, any award of attorneys fees that might result from the third party challenge.
- All signage shall be provided in accordance with Section 23 of the Belmont Zoning Ordinance.
- No pedestrians or walk-up customers shall be served by the drive-thru at any time. A sign prohibiting walk-up customers shall be posted at the drive-thru entrance.
- Post hours of operation and phone numbers for noise complaints.
- This Conditional Use Permit shall be deemed null and void upon a finding by the Planning Commission that the property for which such exception has been granted is in violation of any applicable provisions of this Ordinance, or that there has been failure to comply with any condition or conditions imposed in the granting of a Conditional Use Permit, as per Section 11.9 of the Belmont Zoning Ordinance.
- Prior to implementing the extended hours of operation, the applicant shall submit a lighting plan, and security camera, and "no Loitering" signage location plan to the Community Development Department, subject to review and approval by the Planning Commission.

Police Department

- No debris boxes or building materials shall be stored on the street.

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- Flag persons shall be positioned at both ends of blocked traffic lanes.
- 24-hour written notice to the Police Department is required before any lane closure.
- All activities shall be subject to the requirements of the Belmont Noise Ordinance.
- Parking lot lighting shall be augmented to increase visibility and prevent loitering activities.
- Signs stating, "No Loitering," shall be posted throughout the site and enforced by management.
- A video surveillance system shall be installed enabling management to monitor the parking lot 24-hours per day.
- Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this time if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

Additional Considerations – Since April 18, 2006 Commission Meeting & May 9 and 23, 2006 Council Meetings

Since both the April 18, 2006 Commission CUP approval and May 9 and May 23, 2006 Council action to review the Commission decision, staff has gathered additional information relating to:

- Other McDonald's Facilities & their Hours of Operation in San Mateo County
- Other 24-Hour Uses in Belmont & their associated Police Calls for Service in 2005 and from January 2006 to present
- Police Department Service Calls for last 12 months – West Side of El Camino Real Businesses – 400 to 600 Block
- Other Uses in the "Downtown Corridor" with potential for 24-hour use

Staff also met with applicant representatives on May 11, 2006 to discuss lighting, safety, and security issues associated with the proposed 24-hour operation for the McDonald's facility at 522 El Camino Real. As discussed earlier, the applicants submitted an updated lighting, security camera, and signage plan for the facility for presentation at the June 13, 2006 Council meeting. Discussion on these plans follows further in this report. Should the Council uphold the Commission decision to approve the CUP, staff recommends the Council refer the new/updated operational information back to the Commission for review and approval.

The examination of new/additional information (i.e. updated lighting/signage/security plans) may be undertaken by either the City Council at tonight's hearing or through a referral back to the Planning Commission. As discussed above, staff believes that a referral back to the Planning Commission is the appropriate procedure because they are appointed to evaluate these types of issues which require further examination. In addition, as part of the Commission-directed conditions of approval for the project, they specifically requested subsequent review and approval of final lighting, signage, and security plans prior to establishment of the 24-hour use for the facility. Thus staff believes the Commission's review of such information is warranted as part of the project, should the Council uphold their decision.

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Other McDonald' Facilities – San Mateo County – Hours of Operation

McDonald's Locations	Open 24hrs	Drive-Thru Open Until	Dining Open Until
522 El Camino Rl Belmont 592-6833	No	11pm, midnight	11pm
576 Linda Mar Bl Pacifica 557-1344	No	11pm, midnight	10:30pm, 11pm
15 Monterey Rd Pacifica 359-2051	No	11pm, midnight	10pm
2298 Gellert Bl SSF 583-2562	No	1am	10pm, 11pm
2401 University Ave East Palo Alto 326-6090	No	11pm	10pm
1100 El Camino Rl Menlo Pk 321-1813	No	N/A	midnight
185 Chestnut RWC 364-5316	No	midnight	midnight
1721 E Bayshore Rd East Palo Alto 328-2184	No	1AM	10pm
100 N. Cabrillo Hwy HMB 726-1222	No	10pm, 11pm	10pm
1101 El Camino Rl Millbrae 873-3680	No information	No information	No information
1101 Triton Dr FC 341-4832	No	midnight, 1am	11pm, midnight
536 Whipple Rd RWC 367-6879	Yes	24 hrs	11pm
709 Woodside Rd RWC 568-3319	No	10pm	10pm
1420 S. El Camino Rl SMTD 349-2878	No	N/A	midnight
587 El Camino Rl SSF 588-1881	No	1am	10pm, 11pm
180 El Camino Rl SC 595-0141	No	midnight	midnight
1324 W. Hillsdale Bl SMTD 577-8040	No	N/A	10pm
381 Airport Bl SSF 871-6018	No	1am	11pm

Other 24-Hour Uses – Belmont & their Police Calls For Service – 2005 & 2006

Business	2005 Service Calls	2006 Service Calls (January to Present)
Safeway – 2100 Ralston Avenue	143	50
Safeway – 1100 El Camino Real	225	89
Chuck's Donuts – 641 Ralston Avenue	22	9
Unocal Service Station – 699 Ralston Avenue	38	20
7-Eleven – 400 El Camino Real	37	9

Other Police Department Service Calls – January 2005 to Present – Westside 400 to 600 Block
of El Camino Real

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Since January 2005, the Police Department received and responded to 315 service calls for businesses located along the west side of El Camino Real. Such businesses are located to the north and south (400 to 600 Block) of the McDonald's Facility located at 522 El Camino Real. Such calls for service ranged from suspicious character reports to armed robberies to intoxication/fights incidents. Seventy of such calls (22%) emanated from the adjacent business to the south located at 554 El Camino Real (U-Haul).

Other Uses in Downtown Corridor – El Camino Real/Ralston Avenue – Potential 24-Hour Operation

The request for any business in a Commercial District to operate before 7 AM and after 11 PM requires approval of a Conditional Use Permit. Thus any 24-hour business requires such CUP approval. It should be noted, however, that each project (i.e. CUP request) is to be evaluated based on its own merits, location, and type of business. Such other potential 24-hour businesses and their locations are as follows:

- ARCO – 470 Ralston Avenue
- Dairy Belle – 575 Ralston Avenue
- Wendy's – 698 Ralston Avenue
- Unocal – 995 Ralston
- Chevron – 1001 Shoreway Road

Applicant Submittal – Revised Lighting/Security Camera/Signage Plans

As discussed earlier, the applicant provided revised plans (See Attachment G) which address updated lighting, security camera, and signage improvements that would be undertaken in conjunction with the modified hours of operation plan for the restaurant. The lighting plans indicate that three fixtures would be added to existing light poles – these additional fixtures would be installed for poles adjacent to the drive-thru lane and rear of the property (northwest and southwest portions of the property).

In reference to the expanded security camera plan, the proposal would include 16 cameras – eight placed at various locations along the exterior perimeter of the building to record activity, and eight within the building interior also capturing various vantage points of the restaurant. The proposed signage plan would include a total of four additional signs reading “No Loitering” that would be attached to two light poles and two locations on the building. The applicant will be present at the June 13, 2006 meeting to discuss the scope and intent of their updated lighting/security camera/signage plans for the facility.

General Plan/Vision Statement

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The appropriateness of the subject Conditional Use Permit request (extended hours of operation) should be evaluated in light of the following General Plan Goals & Policies and 2003 Vision Statement objectives:

General Plan Goal 1015.1

"To assure that Belmont will be a balanced community with residences, schools, business, industry and space and facilities for social, recreational and cultural activities in keeping with the present character of the City."

General Plan Goal 1015.5

"To encourage economic development within designated areas of the community to provide jobs, services and convenience goods and to strengthen local sources of revenues."

General Plan Policy 1016.1

"New development should be of a scale and character compatible with surrounding land uses and Belmont's small city environment."

Vision Statement – Distinctive Community Character

"It's small-town ambiance sets it apart as a tranquil, safe, and desirable place to live."

Vision Statement – Thriving Economy

"Our economy prospers with a mix of attractive, successful businesses that fit with our community character."

Fiscal Impact

None.

Public Contact

1. The City Council is required to hold a public hearing on a request for review of a Planning Commission decision as per Section 1-11 of the Municipal Code. The City placed a public notice display ad in the local newspaper of general circulation (San Mateo Times) for a minimum 10-day period beginning on May 13, 2006, for the scheduled public hearing by the City Council on May 23, 2006. The item was subsequently continued to the date certain (June 13, 2006) meeting. The City also mailed the appeal hearing public notice to all property owners within 300 feet of the subject site and other interested parties to inform such persons of the scheduled Conditional Use Permit review hearing.
2. The applicants for the McDonald's facility at 522 El Camino Real were also informed of the Conditional Use Permit review hearing.
3. This matter was placed on the agenda and posted as required by the California Government Code.

Recommendation

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Staff recommends the Council take one of the following actions:

1. Uphold the Planning Commission's decision to approve the Conditional Use Permit (See attached Resolution "A").
2. Overturn the Planning Commission's decision and deny the Conditional Use Permit (See attached Resolution "B").
3. Modify the decision of the Planning Commission and direct staff regarding the modifications (Resolution "A" would be modified or a resolution would be prepared and returned to the Council, if necessary).

Alternative

1. Provide alternative direction to staff.

Attachments

- A. Resolution Upholding Commission Decision and Approving Conditional Use Permit
- B. Resolution Overturning Commission Decision and Denying Conditional Use Permit
- C. Planning Commission Resolution No. 2006-0020 & Conditions of Approval
- D. April 18, 2006 Planning Commission Staff Report & Draft Meeting Minutes
- E. Request for Review & May 9, 2006 City Council Staff Report
- F. Email Communication – May 9, 2006 – Commissioner Christine Wozniak
- G. Applicant Submittal - Lighting/Security Camera/Signage Plans – June 2, 2006

Respectfully submitted,

Carlos de Melo
Community Development Director

Maureen L. Cassingham
Interim City Manager

Staff Contact:

Carlos de Melo, Community Development Director
(650) 595-7440
cdemelo@belmont.gov

ATTACHMENT A

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
UPHOLDING THE PLANNING COMMISSION DECISION
TO APPROVE A CONDITIONAL USE PERMIT FOR 522 EL CAMINO REAL
(APPL. NO. 2006-0006)**

WHEREAS, McDonalds Corporation requests a Conditional Use Permit to modify the hours of operation for an existing McDonald's restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real; and,

WHEREAS, public hearings was duly noticed, held on May 23, 2006 and June 13, 2006, and closed; and,

WHEREAS, the City Council of the City of Belmont finds the project to be categorically exempt pursuant to the California Environmental Quality Act, Section 15301, and,

WHEREAS, the City Council hereby adopts the staff report dated June 13, 2006 and the facts contained therein as its own findings of fact; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony hereinabove set forth; and,

WHEREAS, the City Council has considered the applicant's request for a Conditional Use Permit to modify the hours of operation for the existing restaurant/dive-thru and finds that it meets required findings as set forth in Section 11.5.1 of the Zoning Ordinance for the following reasons:

a) The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.

The applicant is proposing to modify the hours of operation for both dine-in and drive-thru services for an existing McDonalds restaurant. The site fronts onto El Camino Real, a major transportation thoroughfare and is located adjacent to a Dollar Tree market and a U-Haul truck rental facility. Central Elementary School is located adjacent to the rear of the site with no access between properties. The closest residential property is located over 350 feet from the subject McDonalds property. To prevent any conflicts between pedestrians and vehicles, a condition of approval has been included that prohibits any pedestrian or walk-up customers from utilizing the drive-thru at any time. The expanded hours of operation for the restaurant within a commercial area would not place any additional burden on local infrastructure and is compatible with the surrounding uses. This finding is affirmed.

b) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.

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The existing site plan complies with all applicable Building and Zoning Ordinance requirements and no physical changes to the site or building are proposed. The site plan indicates that ample space is available for drive-thru vehicle stacking such that it would not adversely impact on-site parking availability. Additionally, the drive-thru lane is located approximately 130 feet from El Camino Real and thus is not expected to have any impact on off-site vehicular traffic. There is existing parking lot landscaping and front yard landscaping on the site that is sufficient for the existing use. This finding is affirmed.

c) The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.

The subject lot fronts onto El Camino Real, which is a major transportation thoroughfare within the City of Belmont and also the Peninsula region. This roadway is capable of handling any additional traffic that would be generated by the expanded hours of operation. It should be noted that the expanded hours would not include late night and early morning operations that would not conflict with traditional peak commuter hours. This finding is affirmed.

d) The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.

The Belmont Police Department has reviewed the proposal and provided conditions of approval that would ensure that the restaurant will generally not have an adverse affect on neighboring properties. These conditions of approval include:

- Parking lot lighting shall be improved to deter any late night loitering in the parking lot area.
- Security cameras shall be installed to monitor the parking lot 24-hours per day.
- Specific “No Loitering” signs shall be posted throughout the site and enforced by management.
- Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this period if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

With incorporation of and adherence to the above stated conditions of approval, the City Council believes that this finding is affirmed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont hereby upholds the Planning Commission’s decision approving the Conditional Use Permit to modify the hours of operation for an existing McDonalds restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real, based on the aforementioned findings, and subject to the attached conditions of approval.

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* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting held thereof held on June 13, 2006 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

RECUSED, COUNCILMEMBERS: _____

APPROVED:

CLERK of the City of Belmont

MAYOR of the City of Belmont

ATTACHMENT B

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT

**OVERTURNING THE PLANNING COMMISSION DECISION
AND DENYING A CONDITIONAL USE PERMIT FOR 522 EL CAMINO REAL
(APPL. NO. 2006-0006)**

WHEREAS, McDonalds Corporation requests a Conditional Use Permit to modify the hours of operation for an existing McDonald's restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real; and,

WHEREAS, public hearings was duly noticed, held on May 23, 2006 and June 13, 2006, and closed; and,

WHEREAS, the City Council of the City of Belmont finds the project to be categorically exempt pursuant to the California Environmental Quality Act, Section 15301, and,

WHEREAS, the City Council hereby adopts the staff report dated June 13, 2006 and the facts contained therein as its own findings of fact; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony hereinabove set forth; and,

WHEREAS, the City Council has considered the applicant's request for a Conditional Use Permit to modify the hours of operation for the existing restaurant/dive-thru and finds that it does not meet the required findings as set forth in Section 11.5.1 of the Zoning Ordinance for the following reasons:

A.The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.

B.The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.

C.The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.

D.The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont hereby overturns the Planning Commissions decision and denies a Conditional Use

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Permit to modify the hours of operation for an existing McDonalds restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real, based on the aforementioned findings.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting held thereof held on June 13, 2006 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

RECUSED, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont

ATTACHMENT C

RESOLUTION NO. 2006-20

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELMONT
APPROVING A CONDITIONAL USE PERMIT FOR 522 EL CAMINO REAL
(APPL.NO. PA2006-0006)

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WHEREAS, McDonalds Corporation requests a Conditional Use Permit to modify the hours of operation for an existing McDonald's restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real; and,

WHEREAS, a public hearing was duly noticed, held, and closed on April 18, 2006; and,

WHEREAS, the Planning Commission of the City of Belmont finds the project to be categorically exempt pursuant to the California Environmental Quality Act, Section 15301; and,

WHEREAS, the Planning Commission hereby adopts the staff report dated April 18, 2006, and the facts contained therein as its own findings of facts; and,

WHEREAS, the Planning Commission has considered the applicant's request for a Conditional Use Permit to modify the hours of operation for the existing restaurant/dive-thru and finds that it meets required findings as set forth in Section 11.5.1 of the Zoning Ordinance as follows:

A. The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.

The applicant is proposing to modify the hours of operation for both dine-in and drive-thru services for an existing McDonalds restaurant. The site fronts onto El Camino Real, a major transportation thoroughfare and is located adjacent to a Dollar Tree market and a U-Haul truck rental facility. Central Elementary School is located adjacent to the rear of the site with no access between properties. The closest residential property is located over 350 feet from the subject McDonalds property. To prevent any conflicts between pedestrians and vehicles, a condition of approval has been included that prohibits any pedestrian or walk-up customers from utilizing the drive-thru at any time. The expanded hours of operation for the restaurant within a commercial area would not place any additional burden on local infrastructure and is compatible with the surrounding uses. This finding is affirmed.

B. The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.

The existing site plan complies with all applicable Building and Zoning Ordinance requirements and no physical changes to the site or building are proposed. The site plan indicates that ample space is available for drive-thru vehicle stacking such that it would not adversely impact on-site parking availability. Additionally, the drive-thru lane is located approximately 130 feet from El Camino Real and thus is not expected to have any impact on off-site vehicular traffic. There is existing parking lot landscaping and front yard landscaping on the site that is sufficient for the existing use. This finding is affirmed.

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C. The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.

The subject lot fronts onto El Camino Real, which is a major transportation thoroughfare within the City of Belmont and also the Peninsula region. This roadway is capable of handling any additional traffic that would be generated by the expanded hours of operation. It should be noted that the expanded hours would not include late night and early morning operations that would not conflict with traditional peak commuter hours. This finding is affirmed.

D. The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.

The Belmont Police Department has reviewed the proposal and provided conditions of approval that would ensure that the restaurant will generally not have an adverse affect on neighboring properties. Recommended conditions of approval include:

- Parking lot lighting shall be improved to deter any late night loitering in the parking lot area.
- Security cameras shall be installed to monitor the parking lot 24-hours per day.
- Specific “No Loitering” signs shall be posted throughout the site and enforced by management.
- Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this period if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

With incorporation of and adherence to the above stated conditions of approval, the Planning Commission believes that this finding is affirmed.

WHEREAS, the Planning Commission finds the applicant’s request for a Conditional Use Permit is consistent with the required findings pursuant to 11.5.1 of the Belmont Zoning Ordinance (BZO). The Planning Commission reviewed the proposed use and believes the proposal (as conditioned) conforms to all required standards and is generally compatible with neighboring properties.

WHEREAS, the Planning Commission did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

NOW, THEREFORE, BE IT RESOLVED the Planning Commission approves the Conditional Use Permit to modify the hours of operation for an existing McDonald’s restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day at 522 El Camino Real, subject to the conditions attached as Exhibit “A”.

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* * * * *

Passed and adopted at a regular meeting of the Planning Commission of the City of Belmont held on April 18, 2006 by the following vote:

AYES,

COMMISSIONERS: Parsons, Mercer, McKenzie

NOES,

COMMISSIONERS: Wozniak

ABSENT,

COMMISSIONERS: None

ABSTAIN,

COMMISSIONERS: None

RECUSED,

COMMISSIONERS: None

Carlos de Melo

Planning Commission Secretary

ATTACHMENT C

CONDITIONS OF PROJECT APPROVAL
CONDITIONAL USE PERMIT
522 EL CAMINO REAL (APPL. NO. 2006-0006)

I. COMPLY WITH THE FOLLOWING CONDITIONS OF THE COMMUNITY DEVELOPMENT DEPARTMENT:

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- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions:

Planning Division

1. All construction and related activities which require a City building permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
2. In accordance with the Belmont Zoning Ordinance, the permit(s) granted by this approval shall expire one (1) year from the date of approval, with said approval date indicated on the accompanying Planning Commission resolution. Any request for extension of the expiration date shall be made in accordance with the applicable provisions of the Belmont Zoning Ordinance.
3. Prior to issuance of building permits, the property owner shall file with the Director of Community Development, on forms provided by the City, an acknowledgment that he/ she has read, understands and agrees to these conditions of approval.
4. In the event that this approval is challenged by a third party, the property owner and all assignees will be responsible for defending against this challenge, and agrees to accept responsibility for defense at the request of the City. The property owner and all assignees agree to defend, indemnify and hold harmless the City of Belmont and all officials, staff, consultants and agents from any costs, claims or liabilities arising from the approval, including without limitation, any award of attorneys fees that might result from the third party challenge.
5. All signage shall be provided in accordance with Section 23 of the Belmont Zoning Ordinance.
6. No pedestrians or walk-up customers shall be served by the drive-thru at any time. A sign prohibiting walk-up customers shall be posted at the drive-thru entrance.
7. Post hours of operation and phone numbers for noise complaints.

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8. This Conditional Use Permit shall be deemed null and void upon a finding by the Planning Commission that the property for which such exception has been granted is in violation of any applicable provisions of this Ordinance, or that there has been failure to comply with any condition or conditions imposed in the granting of a Conditional Use Permit, as per Section 11.9 of the Belmont Zoning Ordinance.
9. Prior to implementing the extended hours of operation, the applicant shall submit a lighting plan, and security camera, and "no Loitering" signage location plan to the Community Development Department, subject to review and approval by the Planning Commission.

II. COMPLY WITH THE FOLLOWING CONDITIONS OF THE POLICE DEPARTMENT:

1. No debris boxes or building materials shall be stored on the street.
2. Flag persons shall be positioned at both ends of blocked traffic lanes.
3. 24-hour written notice to the Police Department is required before any lane closure.
4. All activities shall be subject to the requirements of the Belmont Noise Ordinance.
5. Parking lot lighting shall be augmented to increase visibility and prevent loitering activities.
6. Signs stating, "No Loitering," shall be posted throughout the site and enforced by management.
7. A video surveillance system shall be installed enabling management to monitor the parking lot 24-hours per day.
8. Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this time if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

Certification of Approved Final Conditions:

STAFF REPORT

RE: 522 El Camino Real - #PA2006-0006

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Jennifer Walker, Associate Planner	Date

ATTACHMENT D

MEETING OF APRIL 18, 2006

AGENDA ITEM NO. 5A

Application I.D.:

PA2006-0006

STAFF REPORT

RE: 522 El Camino Real - #PA2006-0006

April 18, 2006

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Application Type:	Conditional Use Permit
Location:	522 El Camino Real
Owner:	McDonald's Corporation
Applicant:	Berliner Cohen
APN:	044-201-060 and 044-201-260
Zoning:	C-3, Highway Commercial D-1, Design Control Combining
General Plan Designation:	Ch, Highway Commercial
Environmental Determination:	Categorically Exempt, Section 15301

PROJECT DESCRIPTION:

The applicant requests approval of a Conditional Use Permit to modify the hours of operation for a McDonalds restaurant, allowing dine-in service from 5:30 AM to 11:00 PM and drive-thru service 24 hours per day.

RECOMMENDATION

Staff recommends that the Planning Commission **approve** the Conditional Use Permit subject to the findings and conditions of approval contained in the attached draft resolution¹.

GENERAL PLAN/ZONING CODE DESIGNATION

The Belmont General Plan designates the project site as Ch - Highway Commercial. The McDonald's restaurant serves a primarily automobile based clientele, which is consistent with the Ch designation. The subject site is zoned C-3, Highway Commercial, which has an overlay D-1 District, Design Control Combining. Restaurants with drive-thru uses are a conditionally permitted use in the c-3 zoning district.

¹ Please note: This recommendation is made in advance of completion of all public testimony or Commission discussion of the project. At the public hearing, these two factors, in conjunction with the staff analysis, will be considered by the Commission in rendering a decision on the project.

PRIOR ACTIONS/BACKGROUND

McDonald's has been at the present location since 1964. Since that time:

- Design Review approval was granted in 1970 and a conditional use permit for a drive-thru window was granted in 1981 along with design approval of the existing freestanding sign.
- Design Review for new wood trim and to paint the roof beams was granted in 1986.
- Design Review was approved in order to construct a cashiers booth in 1987.
- Design Review and a Conditional Use Permit were approved in 1990 for a new drive-thru one-story restaurant at the same location that required the demolition of the existing restaurant.
- A Conditional Use Permit and Design Review to add 950 square feet to the existing building for a play area were approved in 1997.
- A parking variance was approved in 1997 that reduced the required 37 parking spaces to 35.
- A Design Review application for an addition to the existing building was submitted in 2003 but ultimately was withdrawn.

SITE CONDITIONS

The McDonalds restaurant site is located on the west side of El Camino Real between Davey Glen Road and Middle Road. This section of El Camino Real is characterized by commercial uses that front on the west side of the road and the Caltrain track on the east side. The commercial uses are located within clustered buildings in small commercial plazas. A landscaped street median along El Camino Real and landscaped parking lots help to break up the linear commercial "strip" appearance along this north/south corridor.

The 0.99-acre subject site is developed with a 5,155 square-foot McDonalds restaurant with a drive-thru, parking lot with 35 surface parking stalls, and mature landscaping that includes lawn and redwood trees along the El Camino Real frontage.

PROJECT ANALYSIS

The existing McDonalds restaurant operates dine-in service from 7:00 AM to 11:00 PM as permitted by the Belmont Zoning Ordinance for all commercial uses. During the winter months (September through May) the drive-thru service operates from 7:00 AM to 11:00 PM Sunday through Thursday, and from 7:00 AM to midnight on Friday and Saturday. During the summer months (June through August) the drive-thru service is permitted to operate 7:00 AM to midnight, seven days per week. The Planning Commission approved these hours of operation in 1981 (Resolution No. 1981-13).

As discussed earlier, the applicant is requesting approval of a conditional use permit to modify the hours of operation for the restaurant, allowing dine in service from 5:30 AM to 11:00 PM

and drive-thru service 24-hours per day. No modifications to the exterior of the existing restaurant or to the site plan are proposed in conjunction with the requested CUP.

The Belmont Police Department has reviewed the requested CUP and provided conditions of approval that address potential safety or security concerns associated with a 24-hour drive-thru facility.

PROJECT DATA

Criteria	Existing	Proposed	Required/ Max. Allowed
Lot Size	0.99 acres	No Change	N/A
Slope	<1%	No Change	N/A
FAR	0.121	No Change	1.5
Square Footage	5,155 sq. ft.	No Change	N/A
Parking	35 spaces	No Change	35 spaces
Setbacks:			
Front (El Camino Real - East)	23 ft.	No Change	15 ft.
Side (North)	86 ft.	No Change	0 ft.
Side (South)	23 ft.	No Change	0 ft.
Rear (West)	10 ft.	No Change	0 ft.

NEIGHBORHOOD OUTREACH STRATEGY

The applicants reports performing neighborhood outreach as detailed in attachment IV. On February 14, 2006 a letter was mailed to all property owners within 300 feet of the subject property informing them of the requested modification in hours of operation and providing a comment sheet and a postage-paid envelope for neighbors to use to return comments. The applicant received six written responses, which have been attached. All six of the respondents indicated that they have no objections to the modification of hours. However, one neighbor raised concern with pedestrians being allowed to use the drive-up window after dine-in hours have ended. McDonalds Corporation has indicated that no walk-up customers will be permitted to use the drive-thru at any time and has agreed to post a sign at the drive-thru entrance. A condition of approval to this effect has been included in attachment III. Staff has received no responses to the public notice as of the writing of this report. The applicant has achieved the neighborhood outreach strategy tasks.

ENVIRONMENTAL CLEARANCE (CEQA)

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act as it qualifies under Section 15301:

“Minor alteration of existing public or private structures...involving negligible or no expansion of an existing use.”

The proposal to modify the hours of operation does not modify the existing restaurant use of the property and is exempt from CEQA.

Zoning/General Plan Conformance

The site is designated as Ch - Highway Commercial in the General Plan. Highway commercial uses are described as those businesses depending on automobile traffic for customers and lists restaurants as allowable uses. The McDonald's restaurant serves a primarily automobile based clientele and is in conformance with this General Plan designation.

Commercial uses located within a commercially zoned property are allowed by right to operate between the hours of 7:00 AM and 11:00 PM. Section 5.2.2 (k) of the Zoning Ordinance requires that any use conducted before 7:00 AM or after 11:00 PM obtain a conditional use permit. The requested change in hours of operation for the McDonald's restaurant requires a conditional use permit but does not change the existing use (restaurant w/drive-thru) or size of the building. The existing restaurant and drive-thru use currently operate under a conditional use permit as required for the C-3 Highway Commercial zoning district per section 5.4.2 (e) of the BZO.

No changes to the site plan or building exterior are proposed and thus design review approval is not required at this time.

A parking variance was granted in January 1997 to permit 35 parking spaces where 37 would be required. The proposed modification in hours of operation for the drive-thru service would not impact on-site parking needs. The modified hours of operation for dine-in service will not result in an increase in the amount of indoor seating available, and thus does not increase the intensity of the existing restaurant use.

CONDITIONAL USE PERMIT ANALYSIS

In order to grant a Conditional Use Permit, the Planning Commission must make the following findings pursuant to Section 11.5.1 (a-d) of the City of Belmont Zoning:

- a) The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.*

The applicant is proposing to modify the hours of operation for both dine-in and drive-thru services for an existing McDonalds restaurant. The site fronts onto El Camino Real, a major transportation thoroughfare and is located adjacent to a Dollar Tree market and a U-Haul truck rental facility. Central Elementary School is located adjacent to the rear of the site with no access between properties. The closest residential property is located over 350 feet from the subject McDonalds property. To prevent any conflicts between pedestrians and vehicles, a condition of approval has been included that prohibits any pedestrian or walk-up customers from utilizing the drive-thru at any time. The expanded hours of operation for the restaurant within a commercial

area would not place any additional burden on local infrastructure and is compatible with the surrounding uses. This finding can be made in the affirmative.

b) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.

The existing site plan complies with all applicable Building and Zoning Ordinance requirements and no physical changes to the site or building are proposed. The site plan indicates that ample space is available for drive-thru vehicle stacking such that it would not adversely impact on-site parking availability. Additionally, the drive-thru lane is located approximately 130 feet from El Camino Real and thus is not expected to have any impact on off-site vehicular traffic. There is existing parking lot landscaping and front yard landscaping on the site that is sufficient for the existing use. This finding can be made in the affirmative.

c) The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.

The subject lot fronts onto El Camino Real, which is a major transportation thoroughfare within the City of Belmont and also the Peninsula region. This roadway is capable of handling any additional traffic that would be generated by the expanded hours of operation. It should be noted that the expanded hours would not include late night and early morning operations that would not conflict with traditional peak commuter hours. This finding can be made in the affirmative.

d) The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.

The Belmont Police Department has reviewed the proposal and provided conditions of approval that would ensure that the restaurant will generally not have an adverse affect on neighboring properties. Recommended conditions of approval include:

- Parking lot lighting shall be improved to deter any late night loitering in the parking lot area.
- Security cameras shall be installed to monitor the parking lot 24-hours per day.
- Specific “No Loitering” signs shall be posted throughout the site and enforced by management.
- Incidents at and calls for public safety service to and related to McDonalds, between the hours of 11:00 PM and 5:30 AM shall be monitored by the Belmont Police Department for the first 90-days of operation, for any activity that could potentially impact neighboring properties or public safety services. After the 90-day period expires, or during this period if the data collected so indicates, the Belmont Police Department, at their own discretion, may determine that security personnel are necessary.

With incorporation of and adherence to the above stated conditions of approval, staff believes that this finding can be made in the affirmative.

CONCLUSION

The proposed hours of operation for the existing McDonalds restaurant, permitting dine-in service from 5:30 AM until 11:00 PM and allowing 24-hour drive-thru service, generally meet the objectives of the General Plan and Zoning Ordinance. Based on the foregoing analysis of the required findings, staff recommends **approval** of the Conditional Use Permit application subject to the conditions of approval in attachment III.

ACTION ALTERNATIVES

1. Recommend modified hours of operation for the project and continue the matter to a date certain to allow subsequent review of an alternative proposal.
2. Deny the Conditional Use Permit application.

ATTACHMENTS

- I. 500 foot radius map of project site (Page 2 of report)
- II. Resolution approving the Conditional Use Permit
- III. Conditions of Approval
- IV. Neighborhood Outreach Materials
- V. Project plans and submittal materials (Commission only)

Respectfully submitted,

Jennifer Walker
Associate Planner

Carlos de Melo
Community Development Director

CC: Property Owner
Applicant

ATTACHMENT D

**CITY OF BELMONT
PLANNING COMMISSION
TUESDAY, APRIL 18, 2006 7:00 PM**

Draft Only

5A. PUBLIC HEARING – 522 El Camino Real

To consider a Conditional Use Permit to modify the hours of operation for a McDonald's restaurant to allow dine-in services from 5:30 AM to 11:00 PM, and to allow drive-through service 24 hours per day. (Appl. No. PA2006-0006)

APN: 044-201-060 and 044-201-260

ZONING: C-3/D-1 – Highway Commercial/Design Control District

CEQA Status: Recommended Categorical Exemption per Section 15301

Applicant: Grace Bothne, Esq. of Berliner Cohen

Owner: McDonald's Corporation

AP Walker summarized the staff report, recommending approval.

C McKenzie asked whether Central School had been contacted regarding the neighborhood outreach. AP Walker responded that they had been included in the notifications and that no response had been received.

C McKenzie questioned that 3 notices that were mailed were for businesses across the railroad tracks and asked whether that was relevant. AP Walker responded that they were included in the 300' radius and therefore were mailed a notice.

C Mercer asked about the other drive-thru restaurant in Belmont and what are their drive-thru hours of operation. CDD de Melo responded that Wendy's drive-thru hours are open until midnight.

C Mercer asked about a lighting plan. AP Walker responded that a lighting plan is a condition of approval.

C McKenzie asked about a lighting plan to include the drive-thru driveway and not just the parking lot.

C Wozniak asked how many businesses in Belmont operate on a 24 hour basis. The consensus was that the two Safeways, Chuck's Donuts, and maybe 7-11.

C Wozniak asked about an analysis of criminal activity on El Camino Real in this area. AP Walker responded that the police department is aware of the 24 hour use, that they will closely monitor this, and did not provide analysis information to the planning staff.

C Wozniak asked about access between McDonald's and the school. Consensus was that there is an 8 foot cyclone fence, an "Amazon jungle" between the two, a distance of 150 feet, and a cliff.

C Wozniak asked about current hours of operation. AP Walker responded that they are operating within the hours that the current permit allows.

C Wozniak asked about “no loitering” signs and management staff on hand to enforce this. AP Walker responded that there are 3 staff members on-site at all times.

C McKenzie clarified that this proposal extends the morning dining hours to 5:30A.M, as well. AP Walker affirmed.

Andrew Faber, Berliner Cohen, accepts all of the conditions and McDonald's security is working extensively with the police department. McDonald's has a central monitoring station for security and interactively can talk to the parking lot and can ask people to leave.

MOTION: By C Wozniak, seconded by C Mercer, to close the public hearing.
Motion passed by a verbal of 4 ayes.

C Wozniak commented that there are only a few 24 hour operations in Belmont because of a lack of activity from Belmont residents and that opening McDonald's 24 hours is inviting trouble. C Wozniak commented that she doesn't like the access between McDonald's and the school and that she could not support this project or the extension of the hours.

C Mercer expressed a concern for the lighting emission and the effect on the night time ambiance of a small town. C Mercer expressed the need for a specific lighting plan that would not increase the light pollution on the corridor plus a layout of the signs and security cameras.

C McKenzie commented that El Camino is a highway and their request fits the category of that zoning environment. After visiting the McDonald's and Central School sites, he does not see any direct conflict considering a 8 foot fence, 150 foot distance, security cameras, and 7-11 open 24hrs just a few feet away.

C Parsons commented about the difficulty in getting something to eat in Belmont, San Mateo and San Carlos after 11P.M. and that McDonalds has been a good neighbor in regards to backing away from a previous expansion plan when it was realized that it was not going to work in Belmont. C Parsons does have some concerns about the lighting and would like to see a lighting plan come back. He could support a project like this with a specific lighting plan that has down lighting that does not shine out.

MOTION: By C Mercer, seconded by C McKenzie, to adopt a Resolution approving a Conditional Use Permit for 522 El Camino Real (Appl. No. 2006-0006) with conditions:

- **A lighting plan**
- **Location of the signs**
- **A security camera plan**

Ayes: Mercer, McKenzie, Parsons

Noes: Wozniak

Absent: Horton

Motion Passed: 3/1/1

PLEASE NOTE:

Attachments E, F, and G are not included as part of this document – please contact the City Clerk's Office at (650) 595-7413 for further information on these attachments.